

10

SEASONABLE
QUERIES

Relating to the

Birth *and* Birthright
OF A
CERTAIN PERSON.

SHASONABLE
O U E R I E S

Relating to the

Birth and Rights



O F
CERTAIN PERSON

SEASONABLE
QUERIES

Relating to the

BIRTH and BIRTHRIGHT

OF A

Certain Person.

*Chartæ Invasoris præjudicium legitimo Principi
minime facere deberent. Gervas. inter de-
cem Scriptores. A. 1555. p. 1046.*



Printed in the Year, MDCCXIV.

(Price Three-pence.)

SEASONABLE
QUERIES

Relating to the

BIRTH and BIRTHRIGHT

OF A

Certain Person.

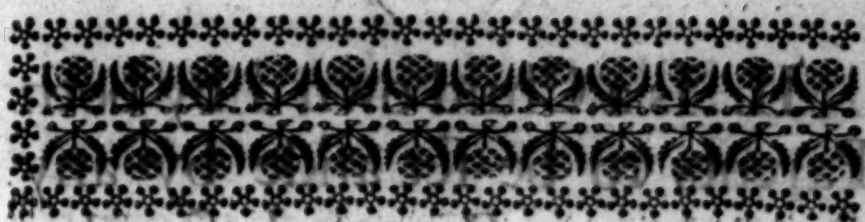


Printed by J. G. Smith, at the
British Museum, in the year
MDCCXIV. A. 1227. p. 1046.



Printed in the Year MDCCXIV.

(Price Three-pence)



SEASONABLE

QUERIES.

IF a Child is own'd by both Parents, is he to be taken for a true Child of those Parents, till he be *Legally* prov'd to be otherwise?

II. Is

II. Is a Child own'd by both Parents to be set aside by any *Suspensions* or *Reports*, before his Birth be *Legally* disprov'd?

III. Is the Birth of a Child own'd by both Parents to be doubted of, when it could not be disprov'd by a GREAT, a POWERFUL, a PREVAILING, a VIGILANT, a CRAFTY, an INTERSTED, a MALICIOUS and a CLAMOUROUS *Party*, which call'd it in Question?

IV. Is the Birth of a Child own'd by both Parents to be doubted of, when it was never disprov'd by the *Next Heir*, who had publickly own'd and acknowledg'd it before GOD and MAN; and who, tho' he
after-

afterward publickly call'd it in Question, yet was never able to disprove it?

V. Is the Birth of a Child own'd by both Parents to be doubted of, which was never disprov'd by the *Next Heir*, who call'd it in Question, and who *Declar'd* to the *World*, that he would refer the Examination of it to certain *Judges* when assembled; but never did refer it, nor propose it to them, as he declared he would, tho' the *Assembly* were of his *own Party*, and several Times call'd upon and challeng'd by the Child's *Father* to enquire into the Birth; nay, tho' the said *Next Heir* were got into *Possession* of

of that *Station*, which the *Child's Father* did claim while he lived for *Himself*, and for his said *Child* upon his *Demise*; and tho' the said *Next Heir* was thus bound in *Honour* and *Conscience*, had *Power* as well as *Will*, and *Opportunity* as well as *Interest* to have disprov'd it, if he could have done it?

VI. Is the Birth of a Child owned by both Parents to be doubted of, or called in Question, in a *Country* or *Kingdom* where there is no *Law* nor *Custom* obliging the Parents to call in any *solemn extraordinary Witnesses* to the Birth of their *Children*?

VII. Is

VII. Is the Birth of a Child owned by both Parents to be doubted of, when there were more *Witnesses* of his *Birth* than ever were of any other Child's Birth since the *Creation* of the *World*, and those *Witnesses* Persons of *Quality* and *Distinction*?

VIII. Has not that Child then, whose Birth was never disproved, a *Legal* and *Just Title* to his Birth?

IX. Has not that Child, who has a *Legal* and *Just Title* to his *Birth*, a *Legal* and *Just Title* to his *Birthright* also?

X. Can he who is in *Possession* of the *Titles* to *Birth* and *Birthright*, be defeated of them
 B till

till they are *Legally* disproved?

XI. Whether is not *He* who is in *Possession* of a *Just Title* to his *Birthright*, in *Possession* also of a *Just Title* to *all Things* that belong to him by his *Birthright*?

XII. Whether can a Man be *discharged* from his *Legal Duty* in *Conscience*, who is not *Justly discharged* from it?

XIII. Whether is a *Legal Proof* and *Evidence* of a *Birth*, without any *Proof* or *Evidence* to the *contrary*, a *convincing Proof*?

XIV. Whether the *owning* the *Birth* of a *Child* by a *Powerful* and *Malicious Party*, who had

had *disowned* it, and *slandered* his *Parents* for many *Years*, be not a *sufficient Argument* for his *Birth* against *that Party*?

XV. Is it *Christian* or *Just* to set aside the *Birth* and *Birthright* of an *Innocent Person*, whose *Birth* hath such *Legal Proofs* and *Evidence*, that *never was*, or *can be disprov'd*?

XVI. Is it *Reasonable* or *Just*, were it *Lawful*, to deprive a *Child* of his *Birthright*, while an *Infant*, upon the *Pretence* of any *Religion*, which in his *Infancy* he was *utterly incapable* of *understanding*?

XVII. Is it *Reasonable* or *Just*, were it *Lawful*, to deprive a *Child* of his *Birthright*, for
 B 2 being

being *bred* in the *Religion* his *Parents* *professed*, and which was the *only* *Religion* of the *Country* in which he was *bred*?

XVIII. Is it *Reasonable* or *Just*, were it *Lawful*, to *deprive* a *Child* of his *Birthright*, for being *bred up* in the *only Religion* he could *learn* in the *Place* where he was *forced* to be, by *those very People*, who took upon them to *deprive* him of his *Birthright*, while an *Infant*, because he was of that *Religion*?

XIX. Is it *Reasonable* or *Just*, were it *Lawful*, to *deprive* a *Child* of his *Birthright*, for being of *this* or *that Religion*, without giving the *same Encouragements* to *Conversion*, which
are

are given to *all* other People of *that Religion*, or without any *Proviso* to restore him to his *Birthright*, in case he should turn to the *Religion* of the *Deprivers themselves*?

XX. Can a Man have his *Birthright Legally* and *Validly* taken away from him, that has no **SUPERIOUR AUTHORITY** above him, that *can* or *could* take way his *Birthright*?

Johannis

Johannis Calvini

Lexicon Juridicum.

Notorium Præsumptionis est de Evidentia Juris vehementis præsumptum, ut Paternitas, Filiatio, ubi non requiritur alia Probatio, nisi Præsumptionis & Conjecturæ. [c. quoniam de Fil. Presbyt.]

Nam quod quis sit alicujus Filius, non potest vere probari. [Leg. *Lucius*. ff. de Condit. & Demonstr.]

Unde

Unde Filius est quem Nuptiæ demonstrant. [ff. de in Jus. Voc. L. quia semper in Fin.]

Nam si Vir & Uxor aliquem Infantem nutriunt, & dicunt eum Filium eorum esse ; tunc præsumitur eorum Filius. Est ergo *Notorium Præsumptionis* Evidentia rei evidenter a jure præsumpta.

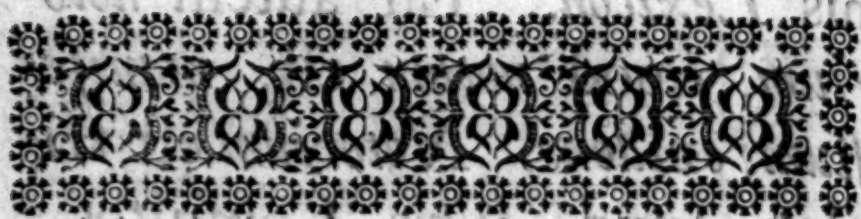
Before I proceed to explain this Passage, I must premise the *Civil Law Definition* of *Notorium* ; that is, of a Thing which is so *evident* to all, that it needs no Proof. Things thus *notorious* are of three Sorts, *Præsumptionis, Juris & Facti*.

Notorium

Notorium Præsumptionis is, what the Law does *vehemently presume to be true* without requiring *Proof*; as that a Father is *Father* to such a *Son*, and such a *Son* the *Son* of such a *Father*; in which Case no other *Proof* is requir'd but *Presumptions* or *Conjectures*. For it cannot be truly nor properly prov'd that this is the *Son* of that *Man*. From whence it is taken for granted, that he is *Son* who is born in *Wedlock*. For if a *Husband* and his *Wife* educate a *Child*, and say he is *their Son*, then he is *presumed* to be *their Son*. Therefore *Notorium Præsumptionis* is the *Evidence* of a Thing which the Law *presumes* to be *true*. To

To this Purpose *Martinius* in his *Lexicon*. Est autem *notorium*, quod *notum* est, *manifestum*, *evidens*. *Notorium* est triplex apud *Juris-Consultos* ; *Præsumptionis*, *Juris*, *Facti*. *Notorium Præsumptionis* est *Evidentia* a *Jure præsumpta* : Ut si *Vir & Uxor* aliquem *Infantem* nutriunt, & dicunt eum esse *Filium ipsorum*, tunc *præsumitur ipsorum Filius*. This is the Law of all Nations.

C P O S T.



POSTSCRIPT.

WHETHER has a *Na-*
tive Child of a Country,
own'd by both Parents, &c.
or a *Foreign* Child, born of a
Woman, whose Husband was
JEALOUS of her, SEPARATED
from her, and CONFIN'D her,
the Best Title to *Legitimacy*?
And

And which of the Two ought, in Reason, to be most the *Con-*
cern of those of *that* Country where the Child was *born*, who was thus own'd by both Parents? &c.

F I N I S.

(12)

And which of the two ought
in Reason, to be most the Com-
mon of those of that Country
where the Child was born, who
was thus owned by both Pa-
rents? &c.



FINIS